

SALLIE B. SANFORD

IBLA 76-124

Decided January 16, 1976

Appeal from a decision of the New Mexico State Office, Bureau of Land Management, rejecting oil and gas lease offer NM-A 22349.

Affirmed.

1. Oil and Gas Leases: Acquired Lands Leases--Oil and Gas Leases:
Lands Subject to

A noncompetitive oil and gas lease offer for acquired land in an incorporated city, is properly rejected since the Mineral Leasing Act for Acquired Lands specifically excludes such lands from its provisions.

APPEARANCES: Sallie B. Sanford, pro se.

OPINION BY ADMINISTRATIVE JUDGE RITVO

Sallie B. Sanford has appealed from a decision of the New Mexico State Office, Bureau of Land Management, dated July 9, 1975, which partially rejected her noncompetitive acquired lands oil and gas lease offer on the grounds that the lands are not available for oil and gas leasing due to their being situated within the limits of the City of Benbrook, Texas.

The lease offer, filed pursuant to the Mineral Leasing Act for Acquired Lands of 1947, as amended, 30 U.S.C. §§ 351-59 (1970), described 1,893.74 acres in the Benbrook Lake Project in Tarrant County, Texas, under the administrative jurisdiction of the Fort Worth District of the Army Corps of Engineers. The Fort Worth District reported that 15 of the 16 tracts designated and described in the application are not available for leasing as they are within the limits of the City of Benbrook; however, it had no objection to leasing the remaining Tract No. A-19 subject to certain stipulations.

The New Mexico State Office therefore rejected the application as to the lands within the city limits, namely Tracts Nos. A-2-1, A-2-2, A-3, A-4, A-5, A-6, A-7, A-8, A-9, A-11, A-13, A-15, A-16, A-17, and A-18, and required the applicant to execute the necessary stipulations as a condition precedent to a lease of Tract No. A-19.

Sanford returned the executed copies of the stipulations required for leasing Tract No. A-19 on the same day that she filed her Notice of Appeal in which she declared her willingness to enter into a stipulation indicating that the oil and gas lease from the Department of the Interior would be subject to her receiving approval from the City of Benbrook concerning drilling operations thereon.

[1] Appellant's willingness to enter into such a stipulation is of no consequence because this Department has no authority to lease the lands noncompetitively under any conditions. Section 3 of the Mineral Leasing Act for Acquired Lands, 30 U.S.C. § 352 (1970), specifically excludes lands situated within incorporated cities, towns and villages from its provisions. The exclusion is also contained in the pertinent regulation, 43 CFR 3501.2-1(d). An application filed under the Act for lands not subject to it must be rejected. Roy G. Barton, Jr., 9 IBLA 50 (1973); Elgin A. McKenna, 74 I.D. 133 (1967), aff'd, McKenna v. Udall, 418 F.2d 1171 (D.C. Cir. 1970).

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is affirmed, and the case is returned to the Bureau of Land Management for appropriate action on the remaining Tract No. A-19.

Martin Ritvo
Administrative Judge

We concur:

Joan B. Thompson
Administrative Judge

Douglas E. Henriques
Administrative Judge

